

HONORABLE ROSANNA M. PETERSON

Heather C. Yakely, #28848
Kutak Rock
510 W. Riverside Ave., Ste. 800
Spokane, WA 99201
(509) 747-4040
(509) 747-4545 facsimile
Heather.Yakely@kutakrock.com
Attorney for Defendants

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

JENNIFER TYLER, an individual,

Plaintiff,

vs.

CHELAN COUNTY, by and through
its agency the CHELAN COUNTY
SHERIFF'S OFFICE, a Washington
Municipal Corporation,

Defendant.

Case No. 2:19-cv-00172-RMP

DEFENDANT'S ANSWER
TO COMPLAINT AND
AFFIRMATIVE DEFENSES

WITH JURY DEMAND

COMES NOW Defendant Chelan County by and through the undersigned
counsel of the law firm of Kutak Rock LLP, and for Answer to the Plaintiff's
Complaint, admit, deny, and allege as follows:

DEFENDANT'S ANSWER TO COMPLAINT, AFFIRMATIVE
DEFENSES AND JURY DEMAND - page 1
4842-4306-8571.1

Kutak Rock LLP
510 W. Riverside, Suite 800
Spokane, WA 99201-0506
(509) 747-4040; fax (509) 747-4545

1 **I. NATURE OF THE ACTION**

2 1.1 For answer to paragraph 1.1 of Plaintiff's Complaint, no answer is
3 required. To the extent that any factual allegations are set forth therein, defendant
4 denies the same.
5
6

7 **II. JURISDICTION AND VENUE**

8 2.1 For answer to paragraph 2.1 of Plaintiff's Complaint, Defendant
9 admits the same.
10

11 2.2 For answer to paragraph 2.2 of Plaintiff's Complaint, Defendant
12 admits the same.
13

14 2.3 For answer to paragraph 2.3 of Plaintiff's Complaint, Defendant
15 admits the same.
16

17 **III. PARTIES**

18 3.1 For answer to paragraph 3.1 of Plaintiff's Complaint, Defendant
19 admits the same.
20

21 3.2 For answer to paragraph 3.2 of Plaintiff's Complaint, Defendant
22 admits the same.
23

24 **IV. ADMINISTRATIVE PROCEDURES**

25 4.1 For answer to paragraph 4.1 of Plaintiff's Complaint, Defendant
26 admits the same.
27
28

1 4.2 For answer to paragraph 4.2 of Plaintiff's Complaint, Defendant
2 admits the same.
3

4 4.3 For answer to paragraph 4.3 of Plaintiff's Complaint, Defendant
5 admits the same.
6

7 **V. FACTUAL ALLEGATIONS**
8

9 5.1 For answer to paragraph 5.1 of Plaintiff's Complaint, Defendant
10 admits the same.
11

12 5.2 For answer to paragraph 5.2 of Plaintiff's Complaint, Defendant
13 denies the same.
14

15 5.3 For answer to paragraph 5.3 of Plaintiff's Complaint, Defendant
16 denies the first sentence as it is taken out of context. Defendant further denies that
17 the email emboldened or caused any alleged discrimination or harassment.
18 Defendant is without sufficient information to admit or deny any reasoning by Ms.
19 Tyler in which "gave rise" to the filing of this suit. Defendants further deny the
20 remainder of the paragraph.
21
22
23

24 5.4 For answer to paragraph 5.4 of Plaintiff's Complaint, Defendant
25 denies the same.
26

27 5.5 For answer to paragraph 5.5 of Plaintiff's Complaint, Defendant
28 denies the same.
29

1 5.6 For answer to paragraph 5.6 of Plaintiff's Complaint, Defendant
2 denies the same.
3

4 5.7 For answer to paragraph 5.7 of Plaintiff's Complaint, Defendant
5 denies the same.
6

7 5.8 For answer to paragraph 5.8 of Plaintiff's Complaint, Defendant
8 denies the same.
9

10 5.9 For answer to paragraph 5.9 of Plaintiff's Complaint, Defendant
11 denies the same.
12

13 **VI. CLAIMS FOR RELIEF**

14
15 **FIRST CLAIM FOR RELIEF:** Discrimination (Hostile Work Environment)
16 based on sex in violation of Title VII of the Civil Rights Act of 1964, as amended,
17 42 U.S.C. § 2000e-2(a)

18 6.1 For answer to paragraph 6.1 of Plaintiff's Complaint, Defendant
19 admits or denies as set forth above.

20 6.2 For answer to paragraph 6.2 of Plaintiff's Complaint, Defendant's
21 deny to any factual allegations, as to any legal statements no answer is required.
22

23 6.3 For answer to paragraph 6.3 of Plaintiff's Complaint, Defendant
24 denies the same.
25

26 6.4 For answer to paragraph 6.4 of Plaintiff's Complaint, Defendant
27 denies any wrongdoing as to any factual allegations.
28

1 **SECOND CLAIM FOR RELIEF:** Discrimination (Harassment) based on sex
2 in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §
3 2000e-2(a)

4 6.5 For answer to paragraph 6.5 of Plaintiff's Complaint, Defendant
5 admits or denies as set forth above.
6

7 6.6 For answer to paragraph 6.6 of Plaintiffs' Complaint, Defendant's
8 deny to any factual allegations, as to any legal statements no answer is required.
9

10 6.7 For answer to paragraph 6.7 of Plaintiffs' Complaint, Defendant
11 denies the same.
12

13 6.8 For answer to paragraph 6.8 of Plaintiff's Complaint, Defendant
14 denies any wrongdoing as to any factual allegations.
15

16 **THIRD CLAIM FOR RELIEF:** Discrimination based on sex in violation of Title
17 VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a)
18

19 6.9 For answer to paragraph 6.9 of Plaintiff's Complaint, Defendant
20 admits or denies as set forth above.
21

22 6.10 For answer to paragraph 6.10 of Plaintiff's Complaint, no answer is
23 required as it sets forth legal standards, only to the extent that any fact is set forth
24 defendants deny the same.
25

26 6.11 For answer to paragraph 6.11 of Plaintiff's Complaint, Defendant
27 denies the same.
28
29

30 DEFENDANT'S ANSWER TO COMPLAINT, AFFIRMATIVE
DEFENSES AND JURY DEMAND - page 5
4842-4306-8571.1

Kutak Rock LLP
510 W. Riverside, Suite 800
Spokane, WA 99201-0506
(509) 747-4040; fax (509) 747-4545

1 6.12 For answer to paragraph 6.12 of Plaintiff's Complaint, Defendant
2 denies the same.
3

4 6.13 For answer to paragraph 6.13 of Plaintiff's Complaint, Defendant
5 denies the same.
6

7 6.14 For answer to paragraph 6.14 of Plaintiff's Complaint, Defendant
8 denies the same.
9

10 6.15 For answer to paragraph 6.15 of Plaintiff's Complaint, Defendant
11 denies any wrongdoing as to any factual allegations.
12

13 **FOURTH CLAIM FOR RELIEF:** Retaliation in violation of Title VII of the
14 Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e-2(a).
15

16 6.16 For answer to paragraph 6.16 of Plaintiff's Complaint, Defendant
17 admits or denies as set forth above.
18

19 6.17 For answer to paragraph 6.17 of Plaintiff's Complaint, no answer is
20 required as it sets forth legal standards, only to the extent that any fact is set forth
21 defendants deny the same.
22

23 6.18 For answer to paragraph 6.18 of Plaintiff's Complaint, Defendant is
24 without sufficient information to admit or deny the first sentence. Defendants deny
25 Sheriff Burnett took any adverse action against Plaintiff. Defendants are further
26 without sufficient information to admit or deny the remainder of the paragraph.
27
28
29

1 6.19 For answer to paragraph 6.19 of Plaintiff's Complaint, Defendant
2 denies the same.
3

4 6.20 For answer to paragraph 6.20 of Plaintiff's Complaint, Defendant
5 denies the same.
6

7 6.21 For answer to paragraph 6.21 of Plaintiff's Complaint, Defendant
8 denies the same.
9

10 6.22 For answer to paragraph 6.22 of Plaintiff's Complaint, Defendant
11 denies the same.
12

13 6.23 For answer to paragraph 6.23 of Plaintiff's Complaint, Defendant
14 denies any wrongdoing as to any factual allegations.
15

16 **FIFTH CLAIM FOR RELIEF:** Discrimination (Hostile Work Environment)
17 based on sex in violation of Washington Law Against Discrimination (WLAD),
18 RCW 49.60.180.

19 6.24 For answer to paragraph 6.24 of Plaintiff's Complaint, Defendant
20 admits or denies as set forth above.
21

22 6.25 For answer to paragraph 6.25 of Plaintiff's Complaint, no answer is
23 required as it sets forth legal standards, only to the extent that any fact is set forth
24 defendants deny the same.
25
26

27 6.26 For answer to paragraph 6.26 of Plaintiff's Complaint, Defendant
28 denies the same.
29

30 DEFENDANT'S ANSWER TO COMPLAINT, AFFIRMATIVE
DEFENSES AND JURY DEMAND - page 7
4842-4306-8571.1

Kutak Rock LLP
510 W. Riverside, Suite 800
Spokane, WA 99201-0506
(509) 747-4040; fax (509) 747-4545

1 6.27 For answer to paragraph 6.27 of Plaintiff's Complaint, Defendant
2 denies the same.
3

4 6.28 For answer to paragraph 6.28 of Plaintiff's Complaint, Defendant
5 denies any wrongdoing as to any factual allegations.
6

7 **SIXTH CLAIM FOR RELIEF:** Discrimination (Harassment) based on sex in
8 violation of the Washington Law Against Discrimination, (WLAD), RCW
9 49.60.180.

10 6.29 For answer to paragraph 6.29 of Plaintiff's Complaint, Defendant
11 admits or denies as set forth above.
12

13 6.30 For answer to paragraph 6.30 of Plaintiff's Complaint, no answer is
14 required as it sets forth legal standards, only to the extent that any fact is set forth
15 defendants deny the same.
16

17 6.31 For answer to paragraph 6.31 of Plaintiff's Complaint, Defendant
18 denies the same.
19

20 6.32 For answer to paragraph 6.32 of Plaintiff's Complaint, Defendant
21 denies the same.
22

23 6.33 For answer to paragraph 6.33 of Plaintiff's Complaint, Defendant
24 denies any wrongdoing as to any factual allegations.
25
26
27
28
29

1 **SEVENTH CLAIM FOR RELIEF:** Discrimination based on sex in violation of
2 the Washington Law Against Discrimination, (WLAD), RCW 49.60.180.

3 6.34 For answer to paragraph 6.34 of Plaintiff's Complaint, Defendant
4 admits or denies as set forth above.
5

6 6.35 For answer to paragraph 6.35 of Plaintiff's Complaint, no answer is
7 required as it sets forth legal standards, only to the extent that any fact is set forth
8 defendants deny the same.
9

10 6.36 For answer to paragraph 6.36 of Plaintiff's Complaint, Defendant
11 denies the same.
12

13 6.37 For answer to paragraph 6.37 of Plaintiff's Complaint, Defendant
14 denies the same.
15

16 6.38 For answer to paragraph 6.38 of Plaintiff's Complaint, Defendant
17 denies the same.
18

19 6.39 For answer to paragraph 6.39 of Plaintiff's Complaint, Defendant
20 denies the same.
21

22 6.40 For answer to paragraph 6.40 of Plaintiff's Complaint, Defendant
23 denies any wrongdoing as to any factual allegations.
24
25
26
27
28
29

1 **EIGHTH CLAIM FOR RELIEF:** Retaliation in violation of the Washington
2 Law Against Discrimination, (WLAD), RCW 49.60.210.

3
4 6.41 For answer to paragraph 6.41 of Plaintiff's Complaint, Defendant
5 admits or denies as set forth above.
6

7 6.42 For answer to paragraph 6.42 of Plaintiff's Complaint, no answer is
8 required as it sets forth legal standards, only to the extent that any fact is set forth
9 defendants deny the same.
10

11 6.43 For answer to paragraph 6.43 of Plaintiff's Complaint, Defendant
12 denies the first three sentences, further, Defendant is without sufficient
13 information to admit or deny the reasoning's why Plaintiff ran for office.
14
15

16 6.44 For answer to paragraph 6.44 of Plaintiff's Complaint, Defendant
17 denies the same.
18

19 6.45 For answer to paragraph 6.45 of Plaintiff's Complaint, Defendant
20 denies the same.
21

22 6.46 For answer to paragraph 6.46 of Plaintiff's Complaint, Defendant
23 denies the same.
24

25 6.47 For answer to paragraph 6.47 of Plaintiff's Complaint, Defendant
26 denies the same.
27
28
29

1 6.48 For answer to paragraph 6.48 of Plaintiff's Complaint, Defendant
2 denies any wrongdoing as to any factual allegations.
3

4 **NINTH CLAIM FOR RELIEF:** Negligence in violation of Washington common
5 law.

6 6.49 For answer to paragraph 6.49 of Plaintiff's Complaint, Defendant
7 admits or denies as set forth above.
8

9 6.50 For answer to paragraph 6.50 of Plaintiff's Complaint, no answer is
10 required as it sets forth legal standards, only to the extent that any fact is set forth
11 defendants deny the same.
12

13 6.51 For answer to paragraph 6.51 of Plaintiff's Complaint, Defendant
14 denies the same.
15

16
17 **VII. PRAYER FOR RELIEF**

18 No Answer is required to Plaintiff's Prayer for Relief.
19

20 **AFFIRMATIVE DEFENSES**

21 For further answer, and as affirmative defenses, Defendant alleges as
22 follows:
23

24 1. Plaintiffs' Complaint fails to state a cause of action against the
25 County, pursuant to *Monell v. Department of Social Services of the City of New*
26 *York*, 436 U.S. 658, 98 S.Ct. 2018 (1978), there can be no recovery for a federal
27
28
29

1 civil rights violation when there is no constitutional deprivation occurring pursuant
2 to governmental custom, policy or practice;
3

4 2. Plaintiff's Complaint fails to state a claim upon which relief may be
5 granted;
6

7 3. Defendant is entitled to absolute and/or qualified immunity;
8

9 4. Plaintiff's own actions proximately caused and/or contributed to any
10 allegedly resulting injuries or damages;
11

12 5. All actions taken by this Answering Defendant of which Plaintiff
13 complains were based upon legitimate and legal factors, and not related to any
14 retaliatory motives of it.
15

16 6. Plaintiff's claims are barred in whole, or in part, by the doctrine of
17 unclean hands.
18

19 7. Plaintiff's claims may be barred in whole or in part by the doctrines
20 of estoppel, waiver, and/or laches.
21

22 8. Pending discovery, Plaintiff's claims may be subject to some of the
23 defenses set forth in Court Rule 12(b).
24

25 9. Pending discovery, Defendants reserve their right to assert the
26 defense of after-acquired evidence.
27
28
29

1 10. Plaintiff's claims may be barred in whole or in part to the extent that
2
3 Plaintiff failed to properly exhaust statutory, regulatory, internal, or administrative
4 procedures, requirements and remedies.

5
6 11. Without conceding that Plaintiff has suffered any damage(s) as a
7 result of any alleged wrongdoing, any claim for relief must be set off and/or
8 reduced by wages, compensation, pay and benefits, or any other earnings or
9 remunerations, profits, and benefits actually received by Plaintiff.

10
11
12 12. Without conceding that Plaintiff has suffered any damage(s) as a
13 result of any wrongdoing, Plaintiff may have failed to act reasonably to mitigate
14 the damages she has alleged.

15
16 13. Defendant Chelan County's actions or conduct, in their individual
17 and/or official capacity, were reasonable at all times relevant hereto and were
18 undertaken in good faith;

19
20
21 14. Defendant Chelan County acted with reasonable care;

22 15. Defendant Chelan County reserves the right to amend their Answer
23 to include additional affirmative defenses and/or counterclaim that may more fully
24 develop and/or any counterclaim to third party action that may be appropriate.
25
26
27
28
29

1 **PRAYER FOR RELIEF**

2 WHEREFORE, having fully answered Plaintiffs' Complaint and having set
3 forth their affirmative defenses, Defendant prays for the following relief:
4

5 1. That Plaintiff's action be dismissed with Plaintiff taking nothing
6 thereby;
7

8 2. Leave to amend this Answer to conform to proof later discovered,
9 pleaded, or offered;
10

11 3. An award of reasonable attorneys' fees and costs incurred in
12 responding to and defending against Plaintiff's claims in this action; and
13

14 4. For other and further relief as the Court deems just and equitable.
15

16 **DEMAND FOR JURY**

17 Defendants hereby demand a Jury trial for all issues so triable.
18

19 DATED this 8th day of July, 2019.
20

21 KUTAK ROCK, LLP

22 By: /s/ Heather C. Yakely
23 Heather C. Yakely, #28848
24 Attorney for Defendant
25 Kutak Rock, LLP
26 510 W. Riverside Ave., Ste. 800
27 Spokane, WA 99201
28 (509) 747-4040
29 (509) 747-4545 facsimile
Heather.Yakely@kutakrock.com

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of July, 2019, I electronically filed the foregoing with the Clerk of the Court using CM/ECF System which will send notification of such filing to the following:

Michael J. Kelly: mike@gehrkelawoffices.com

Joseph O. Baker: joseph@gehrkelawoffices.com

KUTAK ROCK LLP

By s/ Heather C. Yakely

Heather C. Yakely, #28848

Attorneys for Defendant

Kutak Rock, LLP

510 W. Riverside Ave., Ste. 800

Spokane, WA 99201

(509) 747-4040

(509) 747-4545 facsimile

Heather.Yakely@kutakrock.com